

**REMARKS**

**A. The Section 102 Rejections**

**i. The Section 102 Rejections of Claims 1, 10-35, 40-42, 46-49, 51-54, 57 and 61**

The above indicated claims were rejected based on 35 U.S.C. §102(e) as being anticipated by either Fano, U.S. Patent No. 6,397,718 ("Fano") or Ogasawara, U.S. Patent No. 6,577,861 ("Ogasawara"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Of the above-indicated claims, claim 1 is the only independent claim. For present purposes, Applicants will direct their attention to the features of claim 1 from which the remaining claims depend.

Claim 1 requires, among other things, "a wireless apparatus for processing customer orders comprising: a communications transceiver for broadcasting a wireless signal to establish a wireless communications link with a mobile customer within a predetermined distance of a vendor facility" and "a control circuit" coupled to the transceiver to, among other things, receive "a wireless order from said customer" and cause the received order "to be processed to fulfillment."

Neither Fano nor Ogasawara discloses or suggests an apparatus that processes customer orders. In addition, neither discloses or suggests an apparatus that includes a transceiver which broadcasts a wireless signal to a mobile customer, and a control circuit which: establishes a link with the

customer, receives an order from a customer and causes the order to be processed to fulfillment, as in claim 1 and its dependent claims.

Instead, Fano appears to disclose the use of object oriented programming (OOP) and associated program code within a GPS receiver to allow a user of the receiver to receive items of interest for sale in stores currently closest to the shopper/user. There is no hint in Fano, much less a disclosure or suggestion, of an apparatus which processes a customer order which includes the claimed broadcasting transceiver and control circuit. The only signal which is broadcast comes from a satellite hovering in geosynchronous orbit around the earth. There is no disclosure or suggestion in Fano that this satellite is responsible for processing a customer order or causing an order to be processed to fulfillment, as is required by claim 1 and its dependent claims.

In addition, Applicants note that the claimed transceiver broadcasts a wireless signal to establish a wireless communications link with a mobile customer within a predetermined distance of a vendor facility. In contrast, the signal which is broadcast from Fano's GPS satellite may be sent to a user regardless of the distance the user is from a store or from the satellite itself.

Accordingly, because Fano does not disclose each and every feature of the claimed inventions, Fano cannot anticipate claim 1 and its dependent claims.

Turning now to Ogasawara, it too fails to disclose a transceiver which broadcasts a wireless signal to establish a wireless communications link with a

mobile customer and a control circuit which, among other things, receives a wireless order from the customer and causes the order to be processed to fulfillment, as in claim 1 and its dependent claims.

Instead, Ogasawara appears to be directed at a combination of a wireless telephone and a bar code scanner which are used to purchase items from a store or receive information about items which can be so purchased. Ogasawara does not disclose any type of transceiver which broadcasts a wireless signal to establish a wireless communications link with a mobile customer. Instead, Ogasawara repeatedly makes reference to a customer dialing the telephone number of the store in order to establish a link. This is the opposite of the present invention (see Ogasawara, column 10, lines 5 and 6; column 10, lines 19 and 20; column 16, lines 11-16).

Claim 1, and its dependent claims, also requires that the link which is established with the mobile customer be so established within a predetermined distance of a vendor facility. There is no disclosure or suggestion in Ogasawara that the connection between a purchaser and a store server 10 or remote server 26 need be within a predetermined distance of the store server 10 or remote server 26.

Accordingly, because Ogasawara does not disclose each and every feature of claim 1 and its dependent claims, Ogasawara cannot anticipate these claims.

Accordingly, Applicants respectfully requests withdrawal of the rejection of claims 1, 10-35, 40-42, 46-49, 51-54, 57 and 61 and allowance of these claims.

**ii. The Section 102 Rejections of Claims 62-70 and 72-77**

Claims 62-70 and 72-77 were also rejected based on either Fano or Ogasawara under 35 U.S.C. §102(e). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

While claim 1 is directed at a wireless apparatus for processing customer orders (which may be located, for example, at a vendor location), claims 62-70 and 72-77 are directed at a personal wireless communications apparatus for wirelessly placing a customer order (which, for example, is located with a mobile customer).

Of claims 62-70 and 72-77, claim 62 is the only independent claim. For present purposes, our comments will be directed at claim 62, it being understood that the same comments apply to claims 63-70 and 72-77 as well.

The personal wireless communications apparatus of claim 62 requires, among other things, a wireless transceiver for transmitting and receiving order information when the personal wireless communications apparatus “is within a predetermined range of a vendor facility broadcasting a wireless signal.” As indicated above, neither Fano nor Ogasawara discloses or even suggests the broadcast of a wireless signal from a vendor facility. Instead, the signal which is broadcast in Fano comes from a geosynchronously orbiting satellite while in

Ogasawara it is a purchaser, or mobile user, which initiates contact with a vendor facility or store; there is no broadcast of a signal whatsoever from the vendor facility.

Accordingly, because neither Fano nor Ogasawara discloses each and every feature of claim 62, and its dependent claims, neither can anticipate claim 62 and its dependent claims.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 62-70 and 72-77.

**iii. The Section 102 Rejections of Claims 80-83**

Claims 80-83 were also rejected based on 35 U.S.C. §102(e) using either Fano or Ogasawara. Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Claim 80 is the only independent claim within this group of claims and it is to the features of this claim which we will now turn.

Claim 80 is directed at a wireless apparatus "at a vendor facility" which comprises: a communication transceiver for broadcasting a wireless signal to establish a wireless communications link with potential customers within a predetermined distance of the vendor facility, and a control circuit, coupled to the transceiver, for, among other things, attempting to establish a link with a potential customer, and if a link is established, for transmitting an order solicitation message to the potential customer over the established link.

As indicated above, neither Fano nor Ogasawara disclose an apparatus located at a vendor facility which comprises a transceiver for broadcasting a wireless signal to establish a link with customers within a predetermined distance of a vendor facility. Instead, the signal which is broadcast in Fano comes from a geosynchronous orbiting satellite while there is no signal broadcast in Ogasawara whatsoever.

Accordingly, because neither Fano nor Ogasawara discloses each and every feature of claim 80 and its dependent claims, neither Fano nor Ogasawara can anticipate claims 80-83. Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 80-83.

**iv. The Section 102 Rejections of Claims 84, 91-95, 98 and 99-101**

Claims 84, 91-95, 98 and 99-101 were also rejected under 35 U.S.C. §102(e) as being anticipated by either Fano or Ogasawara. Applicants respectfully disagree and traverse these rejections for at least the following reasons.

These claims are directed at a method for processing customer orders at a vendor transaction facility which comprises, among other things, the step of broadcasting a wireless signal to establish a wireless link with a mobile customer at a predetermined distance of a vendor transaction facility.

Rather than repeat the same arguments which have been presented above, Applicants respectfully submit that neither Fano nor Ogasawara

discloses the broadcasting step which is required by claims 84, 91-95, 98 and 99-101.

Because neither Fano nor Ogasawara discloses each and every step of these claims, neither one can anticipate claims 84, 91-95, 98 and 99-101.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 84, 91-95, 98 and 99-101.

**v. The Section 102 Rejections of Claims 102-105, 107 and 108**

Claims 102-105, 107 and 108 were also rejected under 35 U.S.C. §102(e) as being unpatentable by either Fano or Ogasawara. Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Again, rather than repeat the same arguments which have been presented above, Applicants respectfully submit that neither Fano nor Ogasawara discloses the broadcasting step which is required by claims 102-105, 107 and 108.

Because neither Fano nor Ogasawara discloses each and every step of these claims, neither one can anticipate claims 102-105, 107 and 108.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 102-105, 107 and 108.

**B. The Section 103 Rejections**

**i. The Section 103 Rejections of Claims 3, 4, 6-9, 44, 45 and 59**

Claims 3, 4, 6-9, 44, 45 and 59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fano or Ogasawara in further view of Kurland et al.,

U.S. Patent No. 4,553,222 ("Kurland"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicants note that Kurland does not overcome the deficiencies of Fano and Ogasawara noted above. For this reason, Applicants respectfully submit that claims 3, 4, 6-9, 44, 45 and 59 which are dependent on one of the independent claims mentioned above, are not rendered obvious by the combination of Fano or Ogasawara in view of Kurland.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 3, 4, 6-9, 44, 45 and 59.

**ii. The Section 103 Rejection of Claim 5**

Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Fano or Ogasawara in view Coleman, U.S. Patent No. 5,839,115 ("Coleman"). Applicants respectfully disagree and traverse this rejection for at least the following reasons.

Applicants note that claim 5 depends on claim 1 and that Coleman does not overcome the deficiencies of Fano or Ogasawara noted above with respect to claim 1.

Accordingly, Applicants respectfully submit that claim 5 is not rendered obvious by the combination of Fano or Ogasawara in view of Coleman. Applicants respectfully request withdrawal of the pending rejection and allowance of claim 5.



**iii. The Section 103 Rejections of Claims 49 and 50**

Claims 49 and 50 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fano or Ogasawara in view of Treyz et al., U.S. Patent No. 6,587,835 ("Treyz"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicants also note that claims 49 and 50 depend on claim 1 and that Treyz does not overcome the deficiencies of Fano and Ogasawara mentioned above with respect to claim 1. Accordingly, for the reasons set forth above, Applicants respectfully submit that claims 49 and 50 are not rendered obvious by the combination of Fano or Ogasawara in view of Treyz.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 49 and 50.

**iv. The Section 103 Rejections of Claims 55, 56, 71, 78, 79, 96, 97 and 106**

Claims 55, 56, 71, 78, 79, 96, 97 and 106 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fano or Ogasawara in view of Treyz. Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Initially, Applicants note that these claims depend on one or more of the claims discussed above and that Treyz does not overcome the deficiencies of Fano or Ogasawara discussed above. Accordingly, it is respectfully submitted

that the combination of Fano or Ogasawara in view of Treyz does not render obvious claims 55, 56, 71, 78, 79, 96, 97 and 106.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 55, 56, 71, 78, 79, 96, 97 and 106.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

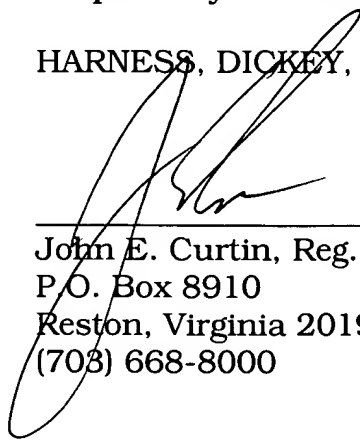
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By



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